



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,425	11/24/2003	Denis Chevalier	FR920020079US1	6092

23550 7590 11/06/2006

HOFFMAN WARNICK & D'ALESSANDRO, LLC
75 STATE STREET
14TH FLOOR
ALBANY, NY 12207

EXAMINER

REZA, MOHAMMAD W

ART UNIT	PAPER NUMBER
----------	--------------

2136

DATE MAILED: 11/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/720,425

Applicant(s)

CHEVALIER ET AL.

Examiner

Mohammad W. Reza

Art Unit

2136

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-10 are presented for examination.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 10 is rejected under 35 U.S.C. 101 because the claim invention is directed to non-statutory subject matter. According to the specification of the invention (Page 1-18) a computer instructions in a computer-like readable medium is reasonably interpreted by one of ordinary skill as just software, it is a system of software, per se. In this claim the function of the program is just software not any hardware. Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. Similarly, computer programs claimed as computer instructions per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional

interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. Accordingly, it is important to distinguish claims that define descriptive material per se from claims that define statutory inventions. So, it does not appear that a claim reciting software with functional descriptive material falls within any of the categories of patentable subject matter set forth in § 101.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-10 are rejected under 35 U.S.C. 102(a) as being anticipated by Kiyohiko Niwa hereafter Niwa (US patent 6453301).
4. As per claim 1, 9, and 10 Niwa discloses a method, an apparatus and a computer-like readable medium comprising instructions comprising the steps of: upon reception of an access request, including at least a subscriber identifier, a service provider identifier and a password, at said at least one point of presence (col. 1, lines 56-67, col. 2, lines 1-11, col. 7, lines 27-51): determining, according to said service provider identifier, if said access request comes from a subscriber of said master service provider or from a subscriber of said client service provider, said access request being rejected otherwise; if said access request comes from a subscriber of said master

Art Unit: 2136

service provider, determining, using said subscriber identifier and said password, if said subscriber is authorized to establish a connection (col. 1, lines 56-67, col. 2, lines 1-11, col. 7, lines 27-51); and, if said subscriber is authorized, establishing a connection, else, rejecting said access request (col. 6, lines 5-12); else, if said access request comes from a subscriber of said client service provider, determining if a new connection may be established for a subscriber of said client service provider; and, if a new connection may be established, sending an authorization request, comprising at least said subscriber identifier and said password, to said client service provider, else, rejecting said access request; upon reception of an authorization acknowledgment, comprising said subscriber identifier, from said client service provider: if said subscriber is authorized, establishing a connection else, rejecting said access request (col. 3, lines 10-27).

5. As per claim 2, Niwa discloses the method comprising the step of replacing said subscriber identifier and said password by a virtual subscriber identifier and a virtual password, associated to said service provider identifier, when said access request comes from a subscriber of said client service provider, before determining if a new connection may be established for a subscriber of said client service provider (col. 1, lines 56-67, col. 2, lines 1-11, col. 7, lines 27-51).

6. As per claim 3, Niwa discloses the method comprising the step of determining a duration of the connections established by subscribers of said client service provider (col. 2, lines 45-59).

Art Unit: 2136

7. As per claim 4, Niwa discloses the method comprising the step of determining a number of simultaneous connections established by subscribers of said client service provider (col. 3, lines 10-27).

8. As per claim 5, Niwa discloses the method wherein said step of determining if a new connection may be established for a subscriber of said client service provider is based upon a number of ports allocated to said client service provider (col. 3, lines 10-27).

9. As per claim 6, Niwa discloses The method wherein said step of determining if a new connection may be established for a subscriber of said client service provider is based upon a connection time threshold associated with said client service provider (col. 4, lines 42-62).

10. As per claim 7-8, Niwa discloses the method implemented in a RADIUS proxy, using RADIUS protocol, and wherein said service provider identifier is a realm (col. 2, lines 19-44).

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad w. Reza whose telephone number is 571-272-6590. The examiner can normally be reached on M-F (9:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MOAZZAMI NASSER G can be reached on (571)272-4195. The fax phone

Art Unit: 2136


number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mohammad Wasim Reza

AU 2136

NASSER MOAZZAMI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100


11/02/06